

**CERTIFIED FOR PUBLICATION**  
**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**  
**FOURTH APPELLATE DISTRICT**  
**DIVISION THREE**

MARK B. PLUMMER,

Plaintiff and Appellant,

v.

DAY/EISENBERG, LLP,

Defendant and Respondent.

G041512

(Super. Ct. No. 07CC05089)

ORDER MODIFYING OPINION  
AND DENYING PETITION FOR  
REHEARING; NO CHANGE IN  
JUDGMENT

It is ordered that the opinion filed herein on April 26, 2010, be modified as follows:

On page 9, the third paragraph beginning “But our independent review . . . ,” third sentence, after the words “But the retention agreement does not end there,” insert the following text: “, according to Plummer.”

After the words “according to Plummer,” insert the following text as footnote 6, which will require renumbering of all subsequent footnotes:

<sup>6</sup> “Day/Eisenberg contends in a rehearing petition that the two-page retention agreement was two separate documents. It notes Bisom stated in a declaration that the second page — the Acknowledgement of Association — was drafted without the knowledge or consent of Bisom & Cohen. But Bisom did not

dispute Plummer's allegation the *clients* executed "a two page Written Retention Agreement," which included the Acknowledgement of Association. And Plummer stated in a declaration: "On March 7, 2003 I met with the Acosta family and obtained a Retention Agreement and Acknowledgement of Association . . . ." At most, a triable issue exists here.

The petition for rehearing is DENIED.

The modification does not change the judgment.

IKOLA, J.

WE CONCUR:

SILLS, P. J.

RYLAARSDAM, J.